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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/728,410 | 12/05/2003 | Raymond P. Paolini | 0-03-239 | 9762 |

7590 03/11/2005

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EXAMINER

GIBSON, ROY DEAN

ART UNIT PAPER NUMBER

3739

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,410

Applicant(s)

PAOLINI ET AL. eD

Examiner

Roy D. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8, 9, 11, 12, 14, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 4, 7, 10, 13 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/05/2003</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 12 recite the limitation "pull-string" in line 2. There is insufficient antecedent basis for this limitation in the claim. The examiner suggests changing this to "pull-strap" to correct this.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-6, 8, 9, 11, 12, 14, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,309,409) in view of Islava (6,719,711). Anderson et al. disclose an inflatable blanket and its method of use comprising:

an inflatable apparatus having (a) a flexible base sheet with a plurality of exhaust ports (112), (b) a flexible overlaying sheet attached to the base sheet (110) to define at

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least one inflatable chamber between the base sheet and the overlaying sheet, (c) an inlet port (108) to receive the thermally-controlled inflating medium that can enter the at least one inflatable chamber, and (d) a periphery zone that is un-inflatable and not surrounded by the inflatable chamber (Figure 1 and col. 3, line 4-col. 4, line 59).

Anderson et al. further disclose a first and second tie strap for securing the blanket over the patient as illustrated in Figures 1-6, but fails to specifically disclose an elongated tie strap having (a) an attachment that is fixedly attached to a non-periphery surface part on the inflatable apparatus, and (b) a remaining portion that is removably attached to the non-periphery surface of the inflatable apparatus and extends from the attachment portion a sufficient distance to be able secure the inflatable blanket in place. However, Islava discloses an inflatable apparatus (Figures 3 & 4) wherein the strap (80) has an attachment portion (the section over the first fastener strip which is attached to the inflatable portion of the apparatus, Figure 4, # 80 also) and a remaining portion (from the first fastener strip to the far end of the strap) which is removably attached to a second fastener strip (Figure 4) and extends from that attachment portion a sufficient distance to be able to secure the apparatus in place and serve as a "pull-strap" (col. 3, line 34-col. 5, line 40).

Note that if one broadly interprets "fixedly", which does not necessarily mean "permanent", then fixedly and "removably" can be similar or the same in interpretation since a Velcro type fastener of Islava would meet the requirements.

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Further to claim 3, Islava discloses the remaining portion is tacked to the non-periphery surface of the inflatable apparatus and that the remaining portion extends from one side of the attachment portion.

Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of Anderson et al., as taught by Islava, to include sufficient length to wrap the tie strap completely around the inflatable portion and provide fixedly or removably attached means to secure the strap, thus more securely holding the patient in place during the thermal treatment.

Allowable Subject Matter

Claims 15-18 are allowed.

Claims 4, 7, 10, 13 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Augustine (6,036,722) discloses a system for convective warming of a patient; and Gardner et al. (5,634,889) disclose a medical appliance with an inflatable portion secured to the patient with a strap overlaying the inflatable portion.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roy D. Gibson
Primary Examiner
Art Unit 3739

March 9, 2005